

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

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| CITY OF DAYTON, | : | |
| | | Case No. 3:11-cv-383 |
| Plaintiff, | | |
| | | Magistrate Judge Michael J. Newman |
| -vs- | : | (Consent Case) |
| A.R. ENVIRONMENTAL, INC., <i>et al.</i> , | | |
| Defendants. | : | |

**ORDER RESCINDING SHOW CAUSE ORDERS TO THIRD-PARTY
DEFENDANTS AGIS SURETY COMPANY AND AMERICAN CONTRACTORS
INDEMNITY COMPANY**

On September 20, 2012, the Court issued separate Orders to Third-Party Defendants Agis Surety Company (“Agis”) and American Contractors Indemnity Company (“ACI”) for each company to show cause why a default judgment should not be entered against it. *See* docs. 106, 107. Pursuant to the Court’s Orders, the Clerk mailed copies of these Show Cause Orders to the address where the summonses were executed: c/o Anthony Balzano, Agis Surety Company/American Contractors Indemnity Company, 5953 Glenway Avenue, Cincinnati, Ohio 45238. *See* docs. 88, 89. On September 25, 2012, counsel for Third-Party Defendant American Contracting Services, Inc. (“ACI”) (a party that is now dismissed from this case) filed a Notice advising the Court that Anthony Balzano is not an agent of either Agis or ACI, and not authorized to accept service for either company. *See* doc. 108.

The Court cannot issue a default judgment against a party who has not been properly served. *LSJ Inv. Co. v. O.L.D., Inc.*, 167 F.3d 320, 322 (6th Cir. 1999). Accordingly, the Court's previous Show Cause Orders to Agis and ACI (docs. 106, 107) are hereby **RESCINDED**.

September 28, 2012

s/ **Michael J. Newman**
United States Magistrate Judge